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## The Violence Against Women's Act: From the Criminalization of Domestic Violence Through Modern Political Challenges

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**The Violence Against Women's Act:  
From the Criminalization of Domestic Violence Through Modern Political Challenges**

University Honors Program Thesis Project

University of Nebraska at Omaha

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May 2020

Mentored by Professor Kim Retzlaff

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**Abstract**

The Violence Against Women's Act, or VAWA, is a landmark piece of federal legislation to combat domestic violence in the United States. It passed in 1994 following various state efforts to stop intimate partner violence. Broad federal legislation was needed to end domestic violence because of the unique nature of the crime including the strong connection between victims and perpetrators, the vast scale of the problem, and the reoccurring nature of domestic violence (Fagan, p. 28-29, 1996). VAWA has been expanded through reauthorization efforts in 2000, 2005, and 2013. Reform efforts have focused on increasing protections for victims especially focusing on stalking, youth, and Indigenous victims, but have become more divisive over time. Current political challenges, especially in relation to gun control, resulted in VAWA's expiration in 2018. Despite VAWA's reauthorization passing in the House of the 115<sup>th</sup> and 116th sessions of Congress, it is unlikely that the Senate will vote to reauthorize the bill soon, especially given the coronavirus outbreak.

*Keywords:* VAWA, Domestic Violence, Intimate Partner Violence, Gender Violence, Reauthorization, Criminalization

### **The Violence Against Women's Act:**

#### **From the Criminalization of Domestic Violence Through Modern Political Challenges**

The Violence Against Women's Act, VAWA, was passed in 1994 to “create a system of enforcement where there was none” in relation to domestic violence (Hunter, 2019). “Domestic violence (also called intimate partner violence, domestic abuse or relationship abuse) is a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship” (National Domestic Violence Hotline Abuse, n.d.). While the definition of domestic violence is limited to violence within intimate relationships, it often occurs in tangent with other forms of abuse such as child abuse and elder abuse. There are many tactics of abuse, such as violence, coercion, and emotional abuse, which can be seen in the power and control wheel displayed as figure A (National Domestic Violence Hotline Abuse, n.d.). In addition to being victimized themselves, 15 million children are exposed to domestic violence every year in the United States, as seen in figure B from the National Task Force to End Sexual and Domestic Violence.

It is hard to truly understand how prevalent intimate partner violence was in the United States before VAWA's passage, as the issue was seen largely as a private matter, and thus extremely underreported to the police. However, even the limited statistics available at the time made clear that gender violence was a massive issue in the United States. For example, “of the 5,745 women murdered in 1991, 6 out of 10 were killed by someone they knew. Half were murdered by a spouse or someone with whom they had been intimate” (Law, 2019). Even in the early stages of the criminalization of domestic violence, it was understood that intimate partner homicide, IPH, was often the culmination of an escalation of violence. While states had passed some laws to combat the epidemic, it was clear that federal legislation was needed to equalize

the penalties and continue to protect the victims who crossed state lines in seeking safety. Even though crimes of this nature would typically be handled at the state level, federal action was also needed because of the unique elements of domestic violence such as the emotional ties between victims and assailants, the reoccurring nature of the crimes, and the mass scale of the problem (Fagan, p. 28-29, 1996). Additionally, the “historical marginalization and denial of domestic violence cases motivated contemporary reforms to increase the criminal justice systems involvement in domestic violence” (Fagan, p. 40, 1996).

VAWA serves as a foundation for further domestic violence legislation through its own reauthorization efforts and by inspiring other legislation at the local and national level. Its passage was only possible thanks to a variety of studies and state laws which preceded it, as well as a lengthy congressional battle. The creation of federal legislation also showed the urgency of responding to domestic violence reports, as police had often seen these calls as a lower priority, especially when resources were limited (Fagan, p. 35, 1996). Despite the undoubted successes of VAWA, there is still much room for improvement, as seen in the fact that “from 2003-2014, the CDC found that approximately 55% of female homicides for which circumstances were known were related to intimate partner violence” (Congressional Research Service, p. 7, 2019).

### **Pre VAWA Domestic Violence Legislation**

Before VAWA was passed, there was no federal legislation in the United States aimed at ending domestic violence. However, state and local governments had been attempting to criminalize intimate partner violence long before the 1990s. The first codified law in the world to expressly make domestic violence illegal was passed by Massachusetts Body of Laws and Liberates in 1641 (Buzawa, Buzawa, Stark, p. 67, 2017). As Massachusetts was controlled by Puritans, their early domestic violence legislation was based on Biblical principles. While these

Biblical ideals guided the criminalization of domestic violence, the law went largely unenforced, and religion continued to be utilized as justification for the perpetration of domestic violence. In fact, “Biblical passages are explicit in promulgating the husband as an agent of the state to both interpret and enforce law” (Buzawa, Buzawa, Stark, p. 67, 2017). Such passages are still used in the justification of violence against women today when people engage in proof texting; the selection small passages to prove their point regardless of the larger context (Buzawa, Buzawa, Stark, p. 69, 2017). The subsequent two centuries saw little change to domestic violence regulations in the United States. In 1824, the Mississippi Supreme Court issued their infamous ruling in *Bradley v. State* which created the ‘rule of thumb.’ This ‘rule’ stated that a man can beat his wife “with a rod no thicker than his thumb” (Buzawa, Buzawa, Stark, p. 62, 2017). The late 19<sup>th</sup> century did see some more encouraging efforts to criminalize domestic violence with Delaware, Maryland, and Oregon all passing legislation against wife beating in the 1880s (Buzawa, Buzawa, Stark, p. 64, 2017). The efforts to criminalize domestic violence followed at a slower pace compared with similar efforts to criminalize child abuse (Fagan, p. 8, 1996).

The 20<sup>th</sup> century did not see the continuation of reform in the United States until the 1970s in which steps began to be taken by many states to deter domestic violence. These reforms allowed women for the first time to obtain a restraining order against a violent husband without filing for divorce at the same time and “by 1980, 47 states had passed domestic violence legislation mandating changes in protection orders” (Fagan, p. 3-9, 1996). The 1980s saw the continued rise of criminalization reforms, such as the institution of mandatory arrest policies. In 1984, the Minneapolis Domestic Violence Experiment was published, which helped to change the public view of domestic violence from a private issue to a social issue and argued that arrest policies should be utilized (Fagan, p. 12, 1996). Unfortunately, while these policies may have

stopped the violence for the day, they often only made things worse for victims who reported but did not separate from the partner, as their abuser's sought retribution for their arrest.

Additionally, further studies have shown that arrest policies are less effective within many sub-populations and are undermined by a lack of prosecution.

Following the increase of intimate partner violence arrests, other reforms were made to the criminal justice system, based on the desires of victims, for the prosecution and rehabilitation of perpetrators. Victims goals in the prosecution of domestic violence are often based around obtaining money or property, coercing partners to obtain counseling, and protecting themselves or their children (Fagan, p. 16, 1996). One reform instituted in many jurisdictions was no-drop policies, which prevent the prosecution from dropping the charges and not seeing the case through. Often these policies allow charges to be pressed even if a victim does not want them to go through, which can unfortunately discourage some women from reporting. Another change implemented was the creation of Batter Intervention Programs, BIP's. BIP course can take a passive approach, working with perpetrators to know and understand the sources of violence, or through more active approaches focusing on anger management (Fagan, p. 18, 1996). While there is empirical evidence to show that these programs are successful for some batterers, studies on their effect are largely inconclusive because there is no control group. Finally, specialized domestic violence courts began to be introduced which focused on therapeutic jurisprudence, the needs of children, and educating the public on gender violence (Fagan, p. 22, 1996). These courts also served as a catalyst for greater change within the justice system and the use of specialized court systems for other unique criminal acts.

Overall the most successful reform efforts of the 1970s and 80s were those which "empowered victims and afforded them a greater role in the decision-making process" (Fagan, p.



33, 1996). Many of the changes tested in this time were based on small studies, thus requiring careful examination for their continuation. However, such studies are extremely difficult to conduct because they are long, expensive, and do not have control groups. While states implemented various reforms to differing degrees of success, it was these reforms, early laws, and court cases, which set the stage for VAWA's eventual passage.

### **The Development of Global Domestic Violence Legislation**

The first international agreement to define violence related to women was the UN Declaration on the Elimination of Violence Against Women of 1993. It defined said violence as “any act that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life” (Johnson, Ollus, Nevala, p. 1, 2007). While this declaration was made a year before VAWA passed, it had little effect on domestic violence legislation in the United States. VAWA, and other United States domestic violence legislation, largely developed in a vacuum from the global debates being held on gender violence in the early 1990s (Hawkins, Humes, p. 240, 2002).

There are many theories on how international norms and legislation related to intimate partner violence spread around the world. Most popular is the two-stage model, which argues that first there must be domestic pressure in a country by autonomous organizations. These organizations must then have an opportunity to have their message heard, often achieved through a crisis. Following successful domestic implementation, the new norm must be accepted by a majority of the international community, resulting in pressure being put on states which do not adapt to the new norm (Hawkins, Humes, p. 241-242, 2002). Proponents of the two-stage model argue that there may one day be a third state of internationalization, which is when the entire

global community fully accepts the new norm. This theory may also explain how the United States was able to develop gender violence legislation in a vacuum. The U.S. had a large enough domestic social movement for the issue that there was public pressure on lawmakers.

Additionally, the U.S. is not often subjected to the pressure international norms, as the country is not dependent on foreign approval for power or influence. Finally, the United States federalist system also complicates international norm diffusion because the different levels of government have varying degrees of concern for international issues (Hawkins, Humes, p. 255, 2002).

Despite the United States developing its legislation in a vacuum, the Americas as a whole served as global leaders in the creation of intimate partner violence legislation. Just a few months before VAWA was passed, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women was ratified by the Organization of American States, OAS, becoming the first international treaty dedicated to preventing violence against women. Notably, two of the greatest powers in the OAS, the United States and Canada, did not ratify the treaty (Hawkins, Humes, p. 231, 2002). Within individual OAS member states, tangible actions to stop violence and raise women's status varied greatly. Chile, Argentina, and Peru all instituted large democratic reforms to help women in gain political power in the early 1990s. Often, the key to reforms being instituted was grassroots social movements keeping issues of gender violence in the public eye (Hawkins, Humes, p. 246, 2002). Other American states began to pass legislation when offered incentives, often in the form of international program funding. In 1996, the Inter-American Development Bank, IDB, provided \$2.875 million in funding for pilot programs to prevent domestic violence, split between six Latin American countries (Hawkins, Humes, p. 251, 2002). The region also had some countries that did not conform to the international pressure and pass new legislation or ratify treaties, such as Brazil and Canada. Non-

conforming countries tended to be stable and wealthy states, un-reliant on international normative approval to secure aid (Hawkins, Humes, p. 252, 2002).

The late 1990s and early 2000s saw increased development of gender violence laws in regions outside of the Americas (Johnson, Ollus, Nevala, p. 5, 2007). In 1998, the Southern African Development Community adopted an amendment to prevent intimate partner violence. Other regional agreements of the time included the 2003 African Union Protocol on the Rights of Women in Africa and the 2004 Declaration on the Elimination of Violence Against Women in the South-East Asian Nations. In 1997, Europe saw the adoption of the European Convention to Raise Awareness of Violence Against Women and the EU implemented the Daphne Program aimed at the prevention of violence against women and children (Johnson, Ollus, Nevala, p. 5, 2007).

When comparing various countries' development of domestic violence legislation in the early stages of international pressure, one sees that implementation is largely dependent on how women's groups function within the given country. In countries where "women's groups enjoy autonomy from the state and dominant political parties, they are able to raise public consciousness about their favored issues and slowly build strong social pressures for change. Where women's movements are dominated by states or political parties, women's concerns become co-opted by the prevailing political system and receive a low priority" (Hawkins, Humes, p. 233, 2002). Thus, "decentralized states are more likely to respond to women's demands" (Hawkins, Humes, p. 233, 2002). Ironically, this means that states with strong democracies were often slower to institute reforms because after decades of patriarchal rule, their political systems had become accustomed to creating barriers to female issues and participation (Hawkins, Humes, p. 233, 2002).

**The 1994 Passage of VAWA**

In 1990, then Senator Joe Biden, began drafting what would become the Violence Against Women's Act, focusing mainly on the prevention of violence (History of VAWA, n.d.).

Additionally, he sought to improve the investigation and prosecutions of batterers when violence did take place (Congressional Research Service, p. 2, 2019). The bill would achieve these goals largely by provided federal grant dollars to local entities for prevention services, collaboration between law enforcement, the judicial system, and the private sector, and expanding investigative resources (Congressional Research Service, p. 3, 2019). Another element of major importance, which could only be achieved through federal legislation, was the ability to enforce final protection orders across state lines (Lundberg-Love, Marmion, p. 89, 2006). This is particularly critical because victims often cross state lines in order to get away from their abuser. Final protection orders would also be added to the National Crime Information Center, NCIC, a database on crimes, criminals, and those with orders against them (Lundberg-Love, Marmion, p. 97, 2006). In adding protection orders to the NCIC, it ensured that law enforcement across the country would have access to the order and be able to enforce them. The final version of the bill also included funds for the creation of the first national domestic violence hotline (Lundberg-Love, Marmion, p. 97, 2006). In taking tangible action to stop violence, these grants, as well as the symbolic nature of the bill, it was hoped that attitudes of government entities and the general public would shift to take intimate partner violence seriously.

Despite the fact that Senator Biden began working on VAWA in 1990, it would take until 1994 for the bill to be passed, largely because of the extensive congressional debate over controversial civil rights remedy. The goals of the civil rights remedy were to provide victims a method of seeking redress and create a "symbolic message that violence against women violated

a civil right” (Schmidt, p. 508, 2015). It did so by providing a “private cause of action for victims of a crime of violence motivated by gender to sue” thus giving victims of gender violence the same legal tools as victims of race motivated violence (Schmidt, p. 520, 2015). The remedy also “did not require conspiracy or an intent to cause a rights deprivation, but only that an act be ‘motivated by gender’” (Schmidt, p. 518, 2015).

The civil rights remedy was unsuccessful in achieving its goals for many reasons including its aspirational nature, the limited tone of discourse on the subject, and it did not actually stop violence. First, “the provision was radical for the time and did not hold support from key stakeholders such as the judiciary or press” (Schmidt, p. 514, 2015). When the civil rights remedy was discussed in Congress, Biden focused attention on symbolic nature of the remedy, rather than its practical purpose. Given the limited attention on the way in which the remedy could be used as a means to punish offenders, its use was extremely rare, with it being invoked in less than 1,000 cases (Schmidt, p. 509, 2015). When the remedy was given attention by the media, it was often focused on cases in which the victim was unsuccessful. The majority of coverage focused on three district court cases that not only sided with the defendants, but ruled that the remedy itself was unconstitutional, and little attention was placed on the many cases in which it was upheld (Schmidt, p. 548, 2015). While other elements weakened the success of the civil rights remedy, the biggest problem was that it truly did not prevent violence (Schmidt, p. 511, 2015). In order for it to have served as a deterrent, the general public, particularly batterers, would have had to know of its existence. Additionally, batterers convicted under the remedy were usually unable to pay the judgements, resulting in them avoiding the punishment (Schmidt, p. 523, 2015). Finally, because the civil rights provision did not come with

any funding to help support prosecutions, it was purely symbolic, further degrading its ability to prevent or punish violence.

While the inclusion of the civil rights remedy in the 1994 passage of VAWA was a major symbolic victory, the remedy did not last long. As a result of various courts both upholding and striking down the civil rights remedy, the Supreme Court decided to take a case to settle the issue. In 2000, the Court issued its majority decision in *United States v. Morrison* written by Chief Justice Rehnquist, in which “the court sided with defendants and held that Congress lacked the authority, under both the Commerce Clause and the Fourteenth Amendment’s Equal Protection and Enforcement Clauses, to create such a provision” (Schmidt, p. 504, 2015). They reached this decision by arguing the domestic and gender violence crimes are not economic in nature, so Congress could not use the commerce clause to defend the remedy. The court also “rejected the claim that Congress had the power under the 14<sup>th</sup> Amendment on the ground that the civil rights remedy was aimed at harm inflicted by individuals rather than state actors” (History of VAWA, n.d.). Given that the Supreme Court ruled against both sources from which Congress claimed power to write such a provision, the civil rights remedy was completely overturned and could not be used in future cases.

In addition to the civil rights remedy, VAWA also created tension over other controversies. First, many conservatives saw the bill as an infringement on states’ rights because it tackled criminal issues that had historically been left to the states. North Carolina Senator Jesse Helms went one step farther, leading a charge that VAWA was not only an infringement on states’ rights but it also went against personal freedom, particularly for men. Helms argued that VAWA was “an invasion on a husband’s right to rule his family” (Buzawa, Buzawa, Stark, p. 296, 2017). On the opposite end of the spectrum, some liberal leaders argued that VAWA did not do enough

to help male victims and that the policy language should be gender blind (Dragiewicz, p. 130, 2008). This criticism received little attention during debates in the 1990s but continues to be raised today. Related, VAWA also helped contribute to the rise of extremist fathers' rights groups, which have only grown stronger over the years. These groups utilize tactics of the feminist movement to try and represent domestic violence allegations as false and portray women to be equally violent to men (Dragiewicz, p. 129, 2008). Fathers' rights groups attack VAWA by arguing that the "prime purposes of feminism are to establish a lesbian socialist republic and to dismantle the family unit" and that VAWA is "highly destructive to American families" (Dragiewicz, p. 132, 2008). Even after VAWA's passage, fathers' rights groups have continued to push that "histories of violence should not be used in custody battles, insisting that what looks like evidence of men's greater violence (police reports, arrests, convictions, protective orders, injuries) is due to false allegations" (Dragiewicz, p. 136, 2008). However, their claims have not been substantiated, and it has been shown that men are actually less likely to get custody because they are less likely to fight for it, not simply because of violence allegations. Even with efforts from strong opposition movements in the 1990s and beyond, VAWA was able to pass and remains law today.

After years of political disagreements, VAWA passed the House by a vote of 235-195, passed the Senate with a vote of 61-38, and was finally signed into law in September of 1994. It became the first U.S. federal legislation acknowledging domestic violence and sexual assault as crimes (Violence Against Women Act, n.d.). VAWA was enacted as Title IV of the Violent Crime Control and Law Enforcement Act (Lynch, 2018). The 1994 passage was possible thanks to the increased public awareness of gender violence following the O.J. Simpson trial and Anita Hill's testimony to congress in which she accused future Supreme Court Justice Clarence Thomas of

sexual harassment (Gathright, 2018). This time also saw a massive increase of women in Congress, which helped to propel the bill (Gathright, 2018). When passed, VAWA provided 1.62 billion federal dollars to a wide array of state and federal agencies to combat violence against women. (Schmidt, p. 503, 2015). VAWA is required to be renewed every five years, which allows appropriations to be reassessed (Violence Against Women's Act, n.d.). These reauthorization efforts have resulted in over eight billion dollars being granted to local, state, and tribal governments and organizations (Willis, 2019). In 1995, the Office on Violence Against Women, OVW, was created within the Department of Justice, DOJ. Its role was to work with the Department of Housing and Human Services, HHS, to implement the provisions outlined in VAWA. The OVW works largely by distributing grants to local entities and working with said entities to develop further program improvements (Meyer-Emerick, p. 5, 2001). It is important to note that the OVW and other services created by VAWA provide support for both male and female victims, despite the name of the law specifying violence against women (Dragiewicz, p. 133, 2008).

### **The Evolution and Reauthorization of VAWA**

In the 21<sup>st</sup> century, VAWA has undergone three successful reauthorization efforts. Each reauthorization featured various improvements and shifts in funding priorities based on areas of increasing need. One such shift that can be seen in all three successful reauthorizations is a decreasing focus on research into the causes and best practices of prevention violence, and instead more investment on programs that have been found to work and new ideas based on completed studies. While political challenges were faced in achieving these efforts, these efforts were generally less controversial than the initial VAWA proposal.

**2000**



The first reauthorization effort, taken up in 2000, passed the House and Senate with bipartisan support. In fact, it passed the Senate unanimously and was nearly unanimous in the House (Hunter, 2019). This was possible because the 2000 reauthorization did not feature any politically controversial changes, and had the fewest reforms of any reauthorization bill, both of which helped to prevent the bill from being held up in committee or being subjected to a lengthy floor fight.

While none of the changes were politically divisive, there were revised definitions and program expansions included in reauthorization. The first definition change was to that of “victims’ services to include advocacy and assistance for victims seeking legal, social, and health care services” (Morella, p. 1, 2000). This change allowed for the diversification of program grant awards. There were also amendments made to clarify and increase enforcement of interstate stalking and domestic violence laws (Congressional Research Service, p. 1, 2019). This helped to ensure that batterers could not escape punishment by crossing state lines and victims could continue to receive protection if they choose to cross state lines. The increased appropriations provided in the new bill were able to expand grant purposes to provide training to address sexual assault, domestic violence, stalking and dating violence; offer training for identifying sexual assault to forensic medical personnel examiners; and develop more sexual assault response teams (Morella, p. 1, 2000).

Overall, the 2000 reauthorization sought to improve protections for “battered immigrants, sexual assault survivors, and victims of dating violence” (History of VAWA, n.d.). It specified that future grants should be prioritized to projects that encourage arrest policies and focus on rural victims. Finally, it mandated that a minimum of five percent of funds appropriated as a result of the reauthorization be dedicated to tribal government (Morella, p. 1, 2000).

**2005**

The 2005 reauthorization bill sought to provide several improvements and elements of holistic reform. The first goal was to increase services for diverse and previously underrepresented communities, such as immigrants and Native Americans (History of VAWA, n.d.). Outside of minority groups, there was also increased attention given to youth victims, or those victims between the ages of 12 and 24. Youth programing included funding for rape prevention and education programs. It also required states offer gender specific programing for juvenile delinquents. To help protect intimate partner violence victims, dating partners were also made a protected class by the 2005 reauthorization, allowing for some increased protections in court which were already available to marital partners. Another broad goal of the reauthorization was to focus grant awards on methods of ensuring victim privacy in hopes of encouraging more victims to report (H.R.3402, p. 2, 2006). Furthermore, the 2005 bill “emphasized the need for a holistic public health approach to domestic violence” (Hunter, 2019). This emphasis built on the expansions in the 2000 reauthorization which provided funding and training for medical personal to understand and identify intimate partner violence.

Many victim service programs received increased funding as a result of the 2005 reauthorization including the National Domestic Violence Hotline, housing programs, and rape crisis centers. Monetary support for increased training for operators of the National Domestic Violence Hotline was provided, specifically to focus on growing the technology skills of the operators (H.R.3402, p. 4, 2006). There was also an increased focus on offering grants to transitional housing assistance programs so that victims and their children would have a safe place to live regardless of financial status when leaving an abuser (H.R.3402, p. 7, 2006). The 2005 bill also “created first federal funding stream to support rape crisis centers” (National

Domestic Violence Hotline, n.d.). This federal funding allowed for additional rape crisis centers to open and allowed established centers to expand their services.

In addition to increased focus on underserved groups and the expansion of program funding, the 2005 reauthorization also provided several important reforms to stalking regulations. First, the definition of stalking was changed to “include placing someone under surveillance with the intent to kill, injure, harass, or intimidate that person” (H.R.3402, p. 2, 2006). Also, to keep up with changing technology, the new definition also included cyberstalking as a method covered by stalking laws (Congressional Research Service, p. 16, 2019). Beyond changing the definition of stalking, the 2005 bill also increased the punishment for stalking by amending the “federal criminal code to double the penalty for repeat domestic violence or stalking offense” (H.R.3402, p. 2, 2006).

### **2013**

Despite VAWA appropriations expiring in 2011, it took two years for a full reauthorization because for the first time since 1994 VAWA had become a partisan issue. The bill was “strongly opposed by conservatives, because of the expansion of the act to include American Indians and same-sex couples and increased protection for victims of sex trafficking” (Lynch, 2018). Thankfully, even though appropriations formally expired in 2011, programs continued to receive funding at their previous levels through FY2012-FY2013 (Congressional Research Service, p. 16, 2019).

Unlike previous reauthorizations, the 2013 bill featured many cuts, however these were largely focused on training and research programs. Given that VAWA had been law for nearly twenty years, many of these programs had served their purposes and their elimination did not harm the integrity of VAWA. Programs that saw grant cuts included home visitation service

provider training, interdisciplinary training, and education programs for medical personnel on domestic violence, sexual assault, stalking, and dating violence (Leahy, p. 3-5, 2013). Funding cuts were also made to research programs investigating the most effective ways in which the health care system could prevent domestic violence and violent sex crimes (Leahy, p. 5, 2013). The health care setting provides a unique opportunity to prevent and discover domestic violence because a doctor's visit may be the only time that a victim is away from their abuser. Additionally, it is critical that the health care system responds to abuse appropriately because "abused women use health care more than any other resource, including criminal justice" (Buzawa, Buzawa, Stark, p. 343, 2017). Any visit to a medical professional can serve as a chance for abuse to be reported because in many states doctors are mandatory reporters, and even if they are not required to report by state law, they have the resources to report abuse. While there is still room for improvement in the health care systems response to violence, there is no longer a need for as much funding to be invested into research. This is because solutions, such as asking all patients intimate partner violence related questions in appointments with their primary care physicians and in emergency rooms, have already been identified to prevent further violence.

In addition to cuts in training and research, there were also cuts to various public awareness campaigns. Compared with completed research and training programs, cuts into public awareness programs pose a greater risk to a resurgence of gender violence. An example of a program that saw total cuts was one focused on increasing public awareness of the pervasiveness of domestic violence against pregnant women (Leahy, p. 3, 2013). While it may appear that this sub group should not receive extra attention, pregnant women remain more vulnerable to abuse because they face limitations in accessing employment, financial strains, and other feelings of entrapment based on the expected child. Additionally, pregnant women may be

less able to defend themselves from abuse given extra caution needed to protect the unborn child. Beyond programs to increase public awareness of the specialized risks faced by pregnant women, programs engaging men and youth in preventing domestic violence and violent sex crimes also saw cuts (Leahy, p. 3, 2013). Cuts to programing for men and young people are particularly scary because these preventative programs are vital to stopping the cycle of violence, only perpetuating the future need to fund programs for prosecution, punishment, and rehabilitation of batterers.

While the cuts in programing received some attention during the political debate, the most divisive element of the 2013 reauthorization was undoubtedly the changes proposed to stop violence in Native communities. Indigenous women are among the most affected by gender violence, as seen in the facts that native women are 2.5 times more likely to be sexually assaulted and 34.1% will be raped in their lifetime (Leonhard, p. 19, 2015). Notably, 85% of rapes and sexual assaults against Native women are perpetrated by non-Native people and 29% of domestic violence cases involved non-Indigenous perpetrators (Leonhard, p. 19, 2015).

The reforms for Native communities in VAWA 2013 were built off of the work in the Tribal Law and Order Act of 2010 (Leonhard, p. 20, 2015). The 2013 reauthorization “re-recognized the inherent sovereign power of tribal nations to punish non-Indians” for the first time since 1978 (Leonhard, p. 18, 2015). VAWA only re-recognized this power in cases of domestic violence, but it could open the door for tribal courts to issue judgements against non-Native people in other crimes. By restoring tribal sovereignty, it proves that domestic violence is being committed by non-Native people within tribal territory and that the federal government is assured that non-Native people can receive a fair trial in a court of Indigenous jurisdiction (Leonhard, p. 18, 2015). The likelihood of a fair trial is also increased given that 46% of

reservation populations are made up of non-Native people, thus preventing non-Natives from arguing that they will not receive a jury of their peers (Leonhard, p. 21, 2015). In addition to the symbolic and tangible benefits associated with restoring tribal judicial sovereignty, allowing Native courts to prosecute domestic violence will help increase the overall rates of prosecution. Without the authority to punish non-Native peoples, cases of domestic violence perpetrated by non-Natives were referred to federal courts. In analysis of cases from 2002 through 2003, it was found that federal prosecutors declined to see through 58.8% of referred cases (Leonhard, p. 19, 2015).

The re-recognition of tribal sovereignty is extremely limited, creating a Special Domestic Violence Criminal Jurisdiction, SDVCJ (VAWA Reauthorization 2013, 2013). Tribal courts participation in the SDVCJ is voluntary and can be decided on a case by case basis. If a tribe chooses not to take the case, it will then be transferred to the U.S. Attorney's office (VAWA Reauthorization 2013, 2013). In addition to allowing tribes to prosecute gender violence by non-Native individuals, the SDVCJ also grants tribal courts "full civil jurisdiction to issue and enforce protection orders" (Leahy, p. 8, 2013). The specific nature of the re-recognition of sovereignty means that the only crimes covered by the SDVCJ are domestic violence, dating violence, and criminal violations of protection orders. Notably excluded are "crimes between two strangers, including sexual assaults" and "child abuse or elder abuse that does not involve the violation of a protection order" (VAWA Reauthorization 2013, 2013). Despite the limitations of the SDVCJ, it is a good starting point to not only increase the prosecution of domestic violence, but help protect Native people from victimization of all crimes. In order to help with the costs of increased prosecution by tribal governments, as well as implement other prevention programs,

“Congress authorized up to \$25 million total for tribal grants in fiscal years 2014 to 2018” (VAWA Reauthorization 2013, 2013).

While changes to the methods of handling domestic violence in Native communities made up the bulk of additions in the 2013 reauthorization, many other important programs were created and expanded. First, even though most programs for domestic violence victims already supported victims of violence at the hands of any intimate partner, the formal definition of domestic violence was amended to include former spouses and other non-marital intimate partners (Congressional Research Service, p. 18, 2019). Despite many research programs being cut in 2013, there were funds appropriated to fund research on the impact of adverse childhood experiences on adult experience with domestic violence (Leahy, p. 4, 2013). Building off of changes made in the 2005 reauthorization, the 2013 bill provided means for improving the “processes for entering data on stalking and domestic violence into crime information databases” (Leahy, p. 10, 2013). Grants were also expanded to allow for more victim and witness counselors for the prosecution of sex crimes and domestic violence. Other sub-groups that received some, although generally limited, increased protection and support include rural victims, disabled victims, and elder victims. There was also funding to “expand the availability of competent pro-bono legal assistance for all victims” (Leahy, p. 2, 2013).

At an international level, the 2013 reauthorization gave the Secretary of State the power to “establish a fund to assist foreign governments meet urgent trafficking prevention needs, protect victims, and prosecute trafficking offenders” (Leahy, p. 11, 2013). Additionally, it also encourages the Secretary of State to help countries with high rates of human trafficking combat the issue, but this assistance can be terminated if the country in question is engages in activities that are “contrary to U.S. security interests” (Leahy, p. 11, 2013).

### **The 2018-2020 Reauthorization Efforts**

On September 30<sup>th</sup>, 2018, VAWA appropriations were set to expire because the funding became tied into the larger budget debate for the 2019 fiscal year budget (Gathright, 2018). Money was secured to prevent VAWA's expiration until December 7<sup>th</sup> 2018 thanks to a continuing budget resolution passed through congress. Funding was once again secured and VAWA's life was extended through December 21<sup>st</sup> 2018 (Gathright, 2018). Unfortunately, on December 22<sup>nd</sup>, the federal government shut down because of the inability to compromise on a complete 2019 budget or another continuing resolution. Despite the shutdown ending after 35 days, VAWA has still not been reauthorized and thus does not have a formal funding agreement. Even though it has expired, "this does not prevent all of VAWA's programs from being administered" (Gathright, 2018). While programs can continue operating, future payment requests are delayed until reauthorization. In fact, the federal budget for 2020 funds VAWA programing at its highest level, appropriating \$582 million, up from \$559 million in 2019 (VAWA Reauthorization Threatened, 2019). The misfortune of VAWA failing to be reauthorized in 2018 is that the bill had broader bipartisan support within the 115<sup>th</sup> Congress, with 46 House Republicans even signing a joint letter to speaker Ryan urging him to push for the reauthorization in the House and Senate (Gathright, 2018).

If VAWA had not become part of the larger budget debate, it may have been reauthorized in 2018 by the 115<sup>th</sup> Congress. After the government shutdown ended, VAWA had to be reintroduced into both chambers of Congress. Within the 116<sup>th</sup> Congress, VAWA's reauthorization is officially become House Resolution 1585. On April 4<sup>th</sup>, 2019, H.R. 1585 passed the House with a vote of 263-158 (VAWA Reauthorization Threatened, 2019). It received the support of 33 republicans and every Democrat except for Minnesota Representative Collin



Peterson (Willis, 2019; VAWA Reauthorization Threatened, 2019). However, the resolution has never come up for a vote in the Senate.

Like the reauthorization efforts before it, the 2019 bill which passed the House provides expansions to programing in key areas of need. First, given the attention raised by the *#MeToo* movement to gender violence, increased funding is offered for prevention services, including those targeted at children. The new prevention programing for youth also allows for a portion of funding to be utilized toward preventing bullying, as it can be a precursor to further battering later in life (Nadler, p. 1, n.d.). Also for youth, H.R. 1585 offers more resources for college campuses to prevent sexual violence. Another area of need addressed by the 2019 bill is funding for improvements for victim screening allowing federally funded health care programs to institute trauma-informed protocols when working with victims seeking medical attention (Nadler, p. 2, n.d.). Additionally, the bill seeks to fund trauma-informed training for law enforcement personal (VAWA Reauthorization Threatened, 2019). By providing first responders such as medical professionals and law enforcement officers with trauma-informed training victims will be much less likely to undergo re-traumatization, a renewed experience of pain by having to retell their story, when seeking medical attention or reporting the crimes against themselves. Beyond providing trauma-informed training, H.R. 1585 increases funding for victims with disabilities and training for support professionals to better be able to work with victims of all abilities (Nadler, p. 1, n.d.). Finally, in contrast with the 2013 reauthorization, the 2019 bill revitalizes funding for increased research to find new solutions and reconsider areas of need. The resurgence of research funding is motivated by a need to assess if programs that have now been fully operational for over two decades are still the most effective areas of investment.

Beyond increased funding appropriations, the text of H.R. 1585 also expands protections for underserved victim groups. First, the bill provides more housing protections for victims by ensuring that survivors can stay in public housing, particularly in the event that they separate from an abusive spouse (Nadler, p. 2, n.d.). In addition to allowing victims to remain in their home, the bill offers more opportunities for victims from previously underserved groups to apply for transitional housing programs. While housing protections and reforms are not politically controversial, the safeguards provided in the bill focused on minority groups are much more controversial (Macagnone, 2019). One such controversial assurance is the further expansion of tribal jurisdiction, building off of the 2013 reauthorization. To go along with expanded tribal jurisdiction, H.R. 1585 also proposes several measures to combat the epidemic of Missing and Murdered Indigenous Women, MMIW, in this country (Willis, 2019). Another section of the bill creating political hurdles is the increased protections for LGBTQ+ individuals, guaranteeing victims from the community the same access to support systems and prosecution assistance as victims from heterosexual relationships. There are also special provisions to aid transgender victims, who have been left out of past versions of VAWA entirely (Willis, 2019). If enacted, the bill would also add “sexual orientation and gender identity to statistical summary of those served by grants” allowing for greater understanding into the rates of domestic violence in the LGBTQ+ community (Nadler, p. 1, n.d.).

By far the most controversial element of H.R. 1585 is the gun reform proposal. The bill closes the “infamous ‘boyfriend loophole,’ which excludes people convicted of stalking or abusing a non-spouse partner from the scope of laws that limit an abuser’s ability to obtain firearms” (Willis, 2019). In effect, the current loophole allows for an individual convicted of domestic violence to purchase a gun if they abused a partner that they were not married to, but if

convicted of the identical offense against ones' spouse, the individual would be prohibited from buying guns. As explained by Minnesota Senator Amy Klobuchar, the 'boyfriend loophole' can be closed by formally "expanding the definition of intimate partners to include dating partners" (Congress, p. 7, 2018). If H.R. 1585 was signed into law in its current form, it would prohibit those convicted of dating violence, stalking crimes, and many other domestic abuse crimes at the misdemeanor and felony level from buying guns (VAWA Reauthorization Threatened, 2019; Macagnone, 2019). Closing the boyfriend loophole is critical to the prevention of gun violence against women. Domestic violence is an escalating crime, and an abuser may feel enough loss of control from a conviction of any kind, against any type of partner, that they will seek revenge with a gun. In fact, "nearly half of women homicide victims in the United States are killed by current or former male partners" and even though not all of the men had a prior conviction, many of the women's lives could have been saved with tighter gun control laws (Willis, 2019). Additionally, a study by the Gifford's Law Center comparing gun violence towards domestic violence victims in states with various gun regulations found that "domestic violence victims are five times more likely to be killed by their abuser if their abuser can obtain a gun" (Willis, 2019).

The debate over the new gun regulations proposed in H.R. 1585 are so divisive that Iowa Senator Joni Ernst proposed her own reauthorization bill. The Ernst bill excludes protections for LGBTQ+ individuals, eliminates programs to help with the MMIW problem, and keeps the boyfriend loophole open (Willis, 2019). When speaking out for her version of the bill, Ernst argues that Democrats are putting politics ahead of people by being unwilling to compromise for reauthorization. She also believes that because she is the lead Republican on the issue, Democrats are holding up VAWA to try and prevent her reelection in 2020 (Willis, 2019). Senator Ernst's position on limiting the expansion of VAWA is particularly interesting because

she is a survivor of domestic violence herself. Given this, she believes that other Senators working on reauthorization are trying to mansplain domestic violence to someone who has “been through the worst of the worst” (Willis, 2019). In addition to her own personal experience, Ernst’s bill is also motivated by the ambitions of the National Rifle Association, NRA, and gun enthusiasts who argue that closing the boyfriend loophole goes against the Second Amendment. Even though Ernst has the backing of the NRA, who lowered their ratings of any representatives who voted for H.R. 1585, only 10 other Republicans in Congress have signed on to her bill (Willis, 2019).

Democrats are continuing to push for a vote on H.R. 1585 in the Senate, with the entire caucus backing the bill (Macagnone, 2019). Senator Klobuchar, a Democratic leader on the issue, argues that Republicans are “hiding in the shadows” and they “should at least be able to stand up to the NRA on this very focused provision” (Willis, 2019). The Democratic argument in favor of H.R. 1585, specifically the gun regulations, is based on the proven risk that gun availability places on domestic violence victims. In arguing for the inclusion of stalking convictions as a barrier to firearm purchase, Senator Klobuchar explains that “one in six women experience stalking during their lifetime. Stalking is often the first step in an escalating pattern of criminal behavior that culminates in physical violence” (Congress, p. 6, 2018). This can be seen in a Department of Justice report that “76% of women who are murdered by intimate partners were first stalked by their partner” (Congress, p. 6, 2018). Closing the loophole for gun purchasing following stalking convictions is critical because there are an estimated “12,000 convicted stalkers in 20 states right now who could get a gun” (Congress, p. 6, 2018). Beyond protecting victims of stalking and domestic violence, closing the boyfriend loophole would help

to stop all types of gun violence, including mass shootings because “57% of recent mass shootings involved domestic violence” in some way (Congress, p. 6, 2018).

While some may see the gun control reforms proposed in H.R. 1585 or other protections for underserved groups as too progressive, too regulatory, or unnecessary, these reforms will help victims and save lives in the future. “VAWA has always been a vehicle for new improvements to strengthen protections available to survivors,” so it is not unusual that a reauthorization would include progressive measures (Hunter, 2019). Looking back, the very idea of VAWA was seen by some to be an undue restriction on the freedom of the American family, but it is now widely accepted as an incredibly successful and important piece of legislation. Even though programs are still receiving funding, it is critical that VAWA be reauthorized as soon as possible so that all victims will have more legal protections. Reauthorization is also becoming time sensitive because the 116<sup>th</sup> Congress is about 75% of the way through its term, and if VAWA does not pass the Senate by the end of this term, it will have to start the process over once again in the 117<sup>th</sup> Congress.

### **Ways to Improve VAWA**

The Violence Against Women's Act has undoubtedly been successful in supporting victims of gender violence, but there is still much more that could be done within future reauthorization efforts or through other laws to pair alongside VAWA. First, because both VAWA and the *#MeToo* have empowered more victims than ever to come forward, it is vital that programs have the resources to meet the increasing demand. The scale of this increased empowerment can be seen from the fact that “in 2017, it is estimated that 40% of rape or sexual assault incidents were reported to the police – nearly double the percentage that were reported in 2016” (Congressional Research Service, p. 7, 2019). Even though it is estimated that still only

40% of rapes are being reported, it is hopeful that rates of reporting are going up at rapid levels. The increased attention to gender violence has also raised demand for prevention programs resulting in a month or longer wait list for almost 40 percent of prevention programs (Hunter, 2019). Even though current programs already are being strained, resources must be dedicated towards the diversification and further availability of all programing. "We can no longer choose between services for victims, or training for law enforcement, or prevention programs that stop the violence before it starts. We must do it all. We must mend the victims and end the violence" (Hunter, 2019). While some reforms to lessen the economic impact of intimate partner violence are proposed in H.R. 1585, more must be done to break down the barriers victimization creates in finding housing and employment (Hunter, 2019).

Beyond the many ways in which programing and funding could be expanded to prevent violence and support victims, it is also crucial that VAWA continues to be used as a tool for recognition and aid towards traditionally underserved groups and ensure legal backing to punish those who have had the ability to escape prosecution in the past. If passed, the 2019 bill would close the boyfriend loophole to gun purchasing, but future reauthorizations should also seek the "elimination of the 'law enforcement consent loophole' that currently allows officers to claim that sexual interactions with individuals in their custody were consensual" (Hunter, 2019). If this loophole were closed, it would result in any sexual interactions between police and those under their custody to be considered nonconsensual, given the power imbalance inherent in any such relationship. These reforms are necessary because despite VAWA's success, "from 2003-2014, the CDC found that approximately 55% of female homicides for which circumstances were known were related to intimate partner violence" (Congressional Research Service, p. 7, 2019). Intimate partner homicide, IPH, is the most extreme form of intimate partner violence and there

must be resources to stop violence before it reaches this level. Finally, even though VAWA programs are being funded at their highest levels ever, VAWA must be reauthorized to allow the increased protections proposed to become law and to show that Congress prioritizes stopping domestic violence.

### **Modern Domestic Violence Legislation Around the World**

Even though VAWA still has great room for improvement, it continues to serve as a model of domestic violence legislation around the world. When examining legislation in other countries, one sees that several nations have stricter gender violence laws, often going much farther than VAWA, such as Cambodia and Singapore. Unfortunately, despite strong laws in these and other nations, violence remains due to cultural attitudes and weak enforcement mechanisms. Cambodia is a prime example of a country with this phenomena as the nation has some of the most comprehensive laws in effect, but there is a “general societal attitude, the unwillingness of police to intervene and unwillingness of victims to come forward” preventing them from being effective (Quaid et al., p. 13, 2013). While Cambodia lacks the societal pressure and the enforcement mechanisms to stop violence, Singapore’s issues with violence largely stems from cultural limitations. Singapore’s Women’s Charter is a central piece of legislation, with sections on preventing violence (Quaid et al., p. 308, 2013). The country has the ability to enforce its laws, but violence is chronically underreported. In a recent survey in Singapore it was found that “80% of people would not intervene if they knew a friend, relative or neighbor was being abused by a partner” (Quaid et al., p. 304, 2013). Given this, it is hard for the country to stop abuse, especially its pervasive issue of verbal abuse, because victims and loved ones are not reporting crimes to law enforcement.

South Africa is another nation with strong laws, but high rates of violence. “Women in South Africa experience among the highest levels of gender based violence in the world” despite the fact that domestic violence was made illegal in the country’s constitution (Quaid et al., p. 319-325, 2013). In addition to the constitution, South Africa has many other laws exclusively for or featuring elements to prevent violence, including the Domestic Violence Act, the Protection from Harassment Act, and the Children’s Act of 2005. South Africa’s Promotion of Equality and Prevention of Unfair Discrimination Act of 2009 seeks to provide fair opportunities for many subgroups, including victims of gender violence (Quaid et al., p. 325, 2013). Despite the far-reaching legislation in South Africa, violence continues because police do not respond to claims, paperwork required for prosecution is never completed, protection orders are not served, and the judicial system is too busy to complete other necessary tasks (Quaid et al., p. 350, 2013). In the rare cases where a batterer is convicted, penalties even for the most extreme domestic violence are not to exceed five years in prison (Quaid et al., p. 343, 2013).

One country with very unique legislation related to gender violence is France. While France has historically had very limited statutory protections for women, those in effect are strictly enforced. Additionally, France has not categorized domestic violence as its own crime, rather charging offenses in the same way they would if there was no intimate relationship between the victim and perpetrator (Quaid et al., p. 6, 2013). For example, this could result in an individual being charged with a crime of assault for beating their partner. On one’s record, there would be no differentiation between a crime motivated by gender compared with a simple assault such as a bar fight. In France, issues specifically related to domestic violence only began to be discussed in formal settings by government officials in the 2000s when protections were developed for victims seeking divorce. Progress was also made in 2010, when France finally



instituted a system of protection orders, potentially allowing victims of all types of violence to prevent their abuser from contacting them or purchasing firearms (Quaid et al., p. 110, 2013).

The specific prohibitions are specific to each individual protection order. Unfortunately, French protection orders only carry a maximum duration of four months, forcing victims to continue to reapply and reappear before judges. Besides the massive inconvenience this creates for victims, it also forces them to be in the room with their abuser, as both sides have an opportunity to tell the judge their side (Quaid et al., p. 110, 2013). Many may find France's limited domestic violence surprising because they are generally seen as a developed nation with gender equality. However, the limits of France's laws are consistent with the aforementioned theories on how domestic violence legislation developed around the world. Given that France is not dependent on foreign aid, they do not have pressure to conform to global norms in developing laws.

Additionally, because women's groups in France are tied into the general political conversation, they lack the autonomy to push their issues into the spotlight (Hawkins, Humes, p. 233, 2002). Despite the overall limitations of domestic violence laws in France, the laws they do have are well enforced, there is a culture of reporting crime, and they protect groups who do not have similar protections in many other countries such as LGBTQ+ victims (Quaid et al., p. 6, 2013).

There are also many nations, such as Kyrgyzstan, Tunisia, and Jordan, which are just beginning to implement laws to combat gender violence. In April of 2017, Kyrgyzstan passed the Safeguarding and Protection Against Domestic Violence Law. This is the first law specifically focused on domestic violence and it includes many progressive reforms such as providing protection for survivors and rehabilitation programs for perpetrators (UN Women, 2017). A few months after Kyrgyzstan passed its landmark legislation, Tunisia also passed its first law to

prevent violence against women. Tunisia was in great need of this legislation because a reported 50% of women in the country are victims of violence at some point during their lives (UN Women, 2017). The year 2017 continued to be a pivotal year for the passage of legislation around the globe to protect women when in August, Jordan overturned its infamous 'rape law' which allowed a "rapists to avoid persecutions by marrying his victim for a minimum of five years" (UN Women, 2017). In sum, these new laws, as well as many others, show that despite the continued pervasiveness of gender violence, there is hope that it will someday end.

### **The Success of VAWA**

In spite of the current political challenges towards the expansion of VAWA, the law has been incredibly effective at achieving its goals. Following its passage, reporting rates of violence saw an instant uptick. In 1993, it was estimated that 48% of intimate partner violence victims reported, and as soon as 1998, this had risen to an estimated 59% of victims (National Domestic Violence Hotline, n.d.). In addition to the increased rates of reporting, VAWA has also inspired more state and federal legislation to stop gender violence. Since 1994, "states have passed over 600 laws to combat domestic violence, dating violence, sexual assault, and stalking." (National Domestic Violence Hotline, n.d.). Furthermore, "all states have passed laws making stalking a crime and changed laws that treated date or spousal rape as a lesser crime than stranger rape" (National Domestic Violence Hotline, n.d.). At the federal level, the Rape Survivor Child Custody Act of 2015 increased grants to programs aiding rape victims, who had children as a result of the rape, in the termination of parental rights of their rapist (Congressional Research Service, p. 23, 2019).

Another goal VAWA has achieved over the past twenty years is creating "a shift in the public perception of the problem" of domestic violence (Law, 2019). In changing the public's

attitude, VAWA has also been able to “secure buy-in from formerly unengaged systems like law enforcement, courts and social services” (National Domestic Violence Hotline, n.d.). This has further allowed for victims to be able to come forward and receive quality support. Beyond engaging with key players in the criminal justice system that had not previously given much attention to intimate partner violence, societal attitude shifts have also helped to create “conditions in which it is increasingly likely that authorities will assess both parties’ accounts, and rule based on evidence rather than sex” (Dragiewicz, p. 134, 2008). While fathers’ rights groups continue to argue that the courts are biased towards women, courts are now much more balanced when making decisions, particularly in child custody battles. This ensures that children will be placed in the best environment and that victims of all gender identities will be aided by the system.

Most importantly, VAWA has been successful in actually lowering rates of violence. While prevention, victim support, and batter intervention programs are all important achievements of VAWA, lowering the rate of violence is VAWA’s most important legacy. The fall of violence could be seen even in the early years of VAWA as “from 1993-1997 the rate of intimate partner violence fell from 9.8 to 7.5 per 1,000 women” (Meyer-Emerick, p. 2, 2001). Furthermore, “the overall rate of intimate partner violence dropped 64% from 1993 to 2010” (Law, 2019). These statistics also show that the increasing provisions offered over the three successful reauthorization processes have been effective. Furthermore, these statistics support approving proposals for even more increased protections as offered in H.R. 1585, because they will likely have similar impact to continue to lower rates of domestic violence. In sum, VAWA’s success, both in stopping domestic violence in the United States and in encouraging other

countries to take on similar legislation, will hopefully result in a world where VAWA becomes unnecessary and nobody has to suffer through domestic violence.

### **The Future of VAWA**

The future of VAWA is uncertain. Along with VAWA's reauthorization, other bills have been proposed to help grow protections for victims. One such bill is the Gun Control Act, GCA, which "prohibits certain individuals from possessing firearms, including individuals who have been convicted of misdemeanor crime of domestic violence" (Congressional Research Service, p. 27, 2019). This GCA would go even farther than simply closing the boyfriend loophole as proposed in H.R. 1585 because it would further limit gun ownership rights from those convicted of misdemeanor domestic violence and not just felony violence. VAWA's reauthorization is unlikely in the near future because Senate Majority leader Mitch McConnell will not even bring up the bill for a vote in the Senate. If a vote on VAWA were held, it would likely pass because it enjoys enough bipartisan support and the bill has sufficient public attention that voting against it could be the difference in a close reelection campaign. If the bill passed the Senate, it is also possible that the president will not sign the reauthorization into law. While VAWA has support across the aisle, it is very possible that this support is not broad enough to override a presidential veto.

Beyond the political roadblocks, coronavirus has also created new and unexpected challenges both for the reauthorization of VAWA and for victims trapped at home with their abuser. Covid-19 has taken control of all aspects of life, including the congressional agenda. Given this, it is unlikely that VAWA reauthorization will be made a priority on the Senate schedule. In the weeks since quarantine has begun, there has been a massive increase in the number of call to the National Domestic Violence Hotline (North, 2020). Many victims utilize

shelters when leaving their abuser, and these shelters are experiencing extraordinary levels of strain during the pandemic. Shelters are often group living environments and they are struggling with social distance and the economic collapse is decreasing private donations to shelters (North, 2020). In addition to being trapped at home, victims now have to fear going to hospitals to get their wounds treated, and they may not be able to bring anyone with them for emotional support. The pandemic has also close courts in some areas, resulting the inability for victims to obtain protection orders or hold trials that were previously scheduled. At the same time as resources are being strained, circumstances are becoming much worse at home for victims. Another impact of coronavirus is a generalized sense of a lack of control over one's personal life, and for batterers this loss of control can result in desperation, leading them to seek out further control over their victim (North, 2020). Given that "historically, instances of domestic violence have increased in times of national crisis" it is to be expected that a crisis of this scale will cause massive increases in violence (Mearhoff, 2020).

While victims are being placed in increasingly difficult situations and VAWA reauthorization looks less likely, there is new hope for victim relief in the pandemic. The first federal relief bill following the pandemic included "\$45 million to provide more support to family violence shelters and \$2 million for the National Domestic Violence Hotline" (Vagianos, 2020). However, Senator Klobuchar is leading an effort to provide even more support for victims during these unprecedented times. In a joint letter with Alaska Senator Murkowski and Pennsylvania Senator Casey, Klobuchar is "calling for over \$300 million in federal funding for domestic violence resource providers" (Mearhoff, 2020). Within this \$300 million funding proposal, the Senators are asking for extra focus and funding to be granted to tribal governments to help prevent any increase to the MMIW crisis (Mearhoff, 2020). This funding would also be

used to develop language-accessible public outreach through the Centers for Disease Control and Prevention so that all people, regardless of their preferred language, will be able to stay informed on support mechanisms available to victims of domestic violence.

Even before the coronavirus pandemic began, VAWA was facing an uncertain future. Party politics, particularly the debate over increasing gun control, have prevented the Senate from even voting on VAWA's reauthorization. The culture created by covid-19 make reauthorization that much more important. Victim support programs such as the National Domestic Violence Hotline are being asked to provide more aid than ever, even though many victims are not able to access aid because they are trapped with their abuser. When the nation reopens, it is likely that programs will see an even greater surge in need as victims are able to report abuse they suffered during quarantine.

From the very beginning, VAWA has constantly faced uphill battles in seeking to expand programing and protections. It has served as a guide for states and other countries to expand their own legislation, further preventing violence. While today's political challenges may seem to be the greatest VAWA has faced, it took over four years to become law in the first place. Over the years, VAWA's progressive reforms have had varying success, from the civil rights remedy being struck down by the Supreme Court in 2000 to the equally controversial, yet immensely successful re-recognition of tribal sovereignty to prosecute domestic violence regardless of the perpetrators ethnicity. Even if reauthorization may seem like a distant dream, the Violence Against Women's Act has always found a path in the face of political uncertainty.

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Figures



Figure A.



Figure B